UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/NGO/3
2 February 1994

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Item 11 (a) and (c) of the
provisional agenda

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

CO-ORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Written statement submitted by the American Association of Jurists, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[4 January 1994]

GE.94-10558 (E)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

I. PROGRAMME AND METHODS OF WORK OF THE COMMISSION

1. The Commission on Human Rights should rationalize its agenda around, on the one hand, the reporting and consideration of situations that reveal systematic and serious violations of human rights and, on the other hand, the major issues related to human rights such as, for example:

(a) The right to life, integrity and freedom of the individual (arbitrary detentions, torture, enforced disappearances, summary executions and related issues);

(b) Freedom of opinion and expression (including freedom of information and freedom of the press). In resolution 2/9 of 21 June 1946, the Economic and Social Council empowered the Commission on Human Rights to establish, in addition to what later became the Sub-Commission on Prevention of Discrimination and Protection of Minorities, a Sub-Commission on Freedom of Information and of the Press, which was never established. It is not, therefore, unreasonable to assert that this is an issue which should be treated as a separate agenda item;

(c) Administration of justice (independence and impartiality of the judiciary, right to a fair trial);

(d) Economic, social and cultural rights;

(e) Right to development; popular participation in its various forms as an important factor in development and in the full realization of all human rights. The item on popular participation was omitted from the agenda of the forty-ninth session of the Commission in 1993, despite the fact that the Commission, in resolution 1991/12 decided to consider the question at its forty-ninth session. Popular participation is one of the items which the Commission should take up in accordance with General Assembly resolution 37/55 and other similar resolutions;

(f) Right of peoples to self-determination;

(g) Effective functioning of the United Nations bodies created for the defence and promotion of human rights (Sub-Commission, Commission, treaty bodies, Centre for Human Rights, special procedures, Advisory and Technical Assistance Services, etc.). Other institutions for the promotion and protection of human rights;

(h) Rights of minorities;

(i) Racial discrimination and religious intolerance;

(j) Rights of the child and of the adolescent;

(k) Rights of women;

(l) Rights of the elderly and of the disabled;

(m) Rights of indigenous peoples;

(n) Rights of migrant workers.

2. Both in the Commission and in the Sub-Commission, efforts should be made to avoid the proliferation of reports and to draw on past reports on the same issues, thus avoiding repetition.

Geographical rotation of the sessions of the Commission

3. It would be desirable for the Commission on Human Rights to meet in turn in the different regions. In addition to simplifying the successive journeys of members and observers, this practice would bring the Commission closer to the field and, reciprocally, would bring the populations of the various regions into contact with the Commission, with undeniable positive effects on the defence and promotion of human rights. A number of NGOs submitted a written document on this matter to the Economic and Social Council in 1990 (E/1990/NGO/4).

## II. COORDINATION FUNCTION OF THE CENTRE FOR HUMAN RIGHTS

4. Permanent and more effective forms of coordination should be established among the treaty monitoring machinery, the special procedures (thematic and on situations) and the procedures established under Economic and Social Council resolutions 1535 (XLII) and 1503 (XLVIII) and, in general, with the other bodies of the United Nations system that are concerned with human rights. In particular, better coordination should be established between Geneva-based bodies and those which have their headquarters in Vienna (the Committee on the Elimination of Discrimination against Women, the Commission on the Status of Women and the Commission on the Prevention of Crime and Criminal Justice).

Computerization

5. In order to further this coordination and human rights work in general and to have an overall and objective view of the human rights situation in each country, it is imperative to establish a computerized central data base in the Centre for Human Rights, not only for the treaty monitoring bodies but for all procedures. Such a data base would make it possible to follow up all situations and cases, in the sphere of special procedures, treaty monitoring machinery and the procedures under Council resolutions 1523 (XLII) and 1503 (XLVIII). The inclusion of the latter procedure in the central computer-based system would mean the end of its confidentiality, a decision which by any reckoning would be likely to enhance the effective enjoyment of human rights.

## III. PROCEDURES FOR THE CONSIDERATION OF SITUATIONS

6. The confidential and public procedures based on Economic and Social Council resolutions 728 F (XXVIII), 1235 (XLII) and 1503 (XLVIII) and Commission on Human Rights resolution 8 (XXIII), designed to bring to the

knowledge of the Commission facts which may constitute "situations", give rise to numerous criticisms: slowness, confidentiality, politicization, partiality, lack of consistency between procedures, etc.

Consequently, a new procedure is proposed, with an accelerated pace of operation, based on the modification and merging of existing procedures and implemented by collegiate bodies, which are better able to view an overall situation and its peculiarities with objectivity and impartiality.

7. Confidentiality would be reduced to a minimum, in the belief that public knowledge of situations of human rights violations and of the activities of the agencies concerned with those violations would help to avoid a selective or politicized approach to such situations and would be a significant deterrent to those responsible for the violations.

8. With the procedure which is suggested, the Commission on Human Rights would have an objective, comprehensive and updated view, based on the technical work of the Secretariat, which would be more streamlined and efficient if it had access to the information stored in a central computerized database, of the report of the Sub-Commission (paras. 2 and 6 of Commission resolution 8 (XXIII)), the contributions of the special rapporteurs, the chairmen of the working groups and the chairpersons of the treaty bodies.

9. Furthermore, this proposal seeks to help to resolve the question of the inter-sessional activities of the officers of the Commission and coordination among the various human rights bodies.

(a) The Commission on Human Rights and the Sub-Commission should receive from the Secretariat a summary of all the communications relating to human rights violations including those to be dealt with under Council resolutions 1235 (XLII) and 1503 (XLVIII) as well as those destined for the special rapporteurs, working groups and treaty bodies (Council resolution 728 F (XXVIII), para. 2 (b));

(b) The Sub-Commission should prepare, on the basis of this information and of information collected from various sources during its annual sessions, a report for the Commission on Human Rights, drawing its attention not only to situations which, in its opinion, reveal a consistent pattern of gross violations of human rights (Commission resolution 8 (XXIII), para. 6) as well as the existence of tendencies which might lead to that kind of situation (early warning), in the context of paragraph 2 of Commission resolution 8 (XXIII);

(c) Immediately following the annual session of the Sub-Commission, a joint meeting should be held of the officers of the Commission and the Sub-Commission, the special rapporteurs (thematic and on situations), the chairmen of the working groups and the chairpersons of the treaty bodies in order to consider the report of the Sub-Commission and any information which participants in the meeting might wish to furnish;

(d) When the participants in the meeting have been heard, the officers of the Commission on Human Rights will decide whether there are any situations that require immediate attention;

(e) If there are, the officers of the Commission will apply to the Government or Governments concerned for authorization to carry out a visit in situ within 30 days, accompanied by the special rapporteurs, chairmen of working groups or chairpersons of treaty bodies designated by them;

(f) If they do not obtain authorization from the Government in question or if the inquiries conducted prove to be ineffective or unsatisfactory, the officers may decide to convene the Commission in extraordinary session in order to decide the measures to be adopted. The officers of the Commission will publicize the decisions adopted and their outcome;

(g) Immediately prior to the extraordinary session of the Commission, a meeting similar to that described in (c) will be held, to consider an update of the summary prepared by the Secretariat and referred to in (a), the report of the Sub-Commission referred to in (b), the report of the Commission's Working Group on Situations, the activities of the officers of the Commission since the meeting referred to in (b) and any other information which the participants might wish to furnish;

(h) The officers of the Commission will prepare a public report of the session, for the Commission, which will decide on the measures to be adopted.

## IV. ESTABLISHMENT OF AN EMERGENCY MECHANISM OF THE COMMISSION ON HUMAN RIGHTS

(Commission resolution 1992/55)

10. Upon the initiative of not less than three officers of the Commission on Human Rights an extraordinary session similar to those envisaged in section III (c) and (g) above might be convened in order to deal with (a) situation(s) whose exceptional seriousness call(s) for immediate attention. As a consequence of the extraordinary session, the officers of the Commission would adopt measures in conformity with the provisions contained in (d), (e) and (f).

## V. URGENT ACTIONS BY SPECIAL RAPPORTEURS AND WORKING GROUPS

11. Urgent actions by special rapporteurs and working groups should become standard practice.

## VI. RECEIPT OF COMPLAINTS IN TREATY BODIES. OPTIONAL PROTOCOLS.

12. Treaty bodies which have not yet done so should incorporate into their rules of procedure machinery for receiving individual or collective complaints or complaints from NGOs and should embark upon the study and elaboration of optional protocols (especially to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women) as is being done in the cases of the Convention against Torture and the International Covenant on Economic, Social and Cultural Rights.

---

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/NGO/4
18 January 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Item 11 of the provisional agenda

# FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Joint statement submitted by Caritas Internationalis, Commission of the Churches on International Affairs of the World Council of Churches and Friends World Committee for Consultation (Quakers), non-governmental organizations in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[4 January 1994]

GE.94-15143 (E)

INTERNALLY DISPLACED PERSONS

1. At its forty-ninth session, the United Nations Commission on Human Rights adopted, without a vote, resolution 1993/95 entitled "Internally displaced persons" which was sponsored by 31 States. The resolution was introduced by the delegation of Austria and co-sponsored by Argentina, Australia, Burundi, Canada, Costa Rica, Cyprus, the Czech Republic, Denmark, Finland, France, the Gambia, Greece, Hungary, Italy, Japan, Lebanon, Lesotho, Nigeria, Norway, Peru, Poland, the Russian Federation, the Sudan, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela, Zambia and Zimbabwe. This resolution was warmly welcomed by non-governmental organizations since it extended the mandate of the Representative of the Secretary-General for a further two years, thus enabling the continuation of his work in this area.

2. We commend the activities undertaken by the Representative of the Secretary-General on internally displaced persons, in particular country visits and his willingness to draw to the attention of Governments and the international community the needs in particular situations to address the problems of internal displacement. Those countries which have invited the Representative of the Secretary-General are to be commended and others should be encouraged to follow their example.

3. The phenomenon of internal displacement is now recognized as being global in nature, not confined to any one region, and encompassing 25 to 30 million persons in the latest estimate of the Secretary-General's Representative (in addition to a refugee population of 18.2 million 1/). Furthermore, although there are various causes of internal displacement, the most common are internal conflicts, communal violence, forced relocation and gross violations of human rights; circumstances which are often combined in the context of civil wars. 2/

4. The response by the international community to the protection and assistance needs of internally displaced persons in all too many situations remains inadequate and uncoordinated. Given the size and global nature of the problem of internal displacement, the failure to provide the minimum level of adequate resources for this work is short-sighted in the extreme. Furthermore, coordination by the different parts of the United Nations system in their respective activities in relation to internally displaced persons is essential because there is not yet a single institution or focal point to implement or oversee the international response to the protection and assistance needs of internally displaced persons. In this context, we welcome the fact that the Representative of the Secretary-General has now been invited by the Department of Humanitarian Affairs (DHA) to attend the meetings of the task force on the internally displaced. 3/ We encourage further cooperation and coordination of all the agencies involved.

5. The World Conference on Human Rights recognized that "a comprehensive approach by the international community is needed ... This should include the development of strategies to address the root causes and effects of movements of refugees and other displaced persons ... In the light of the comprehensive approach, the World Conference on Human Rights emphasizes the importance of

giving special attention ... and finding lasting solutions to questions related to internally displaced persons...". 4/

6. In the conclusions adopted at its forty-fourth session, 5/ the UNHCR Executive Committee supported the activities of the United Nations High Commissioner for Refugees in relation to internally displaced persons in accordance with the operational criteria contained in the Note on International Protection, 6/ that in

> "(a) Situations of internal displacement where there is a direct link with UNHCR's activities under its basic mandate to protect refugees and seek solutions to refugee problems, including:
>
> (i) those where internally displaced populations are mingled with groups of returnees or are in areas to which refugees are expected to return; or
>
> (ii) those where the same causes have produced both displacement and refugee flows or there is a significant risk of cross-border movement of some or all of the internally displaced.
>
> In these situations, UNHCR will favourably consider assuming primary responsibility for the internally displaced ...
>
> (b) Other situations where the link with mandated UNHCR activities is not present or is less direct ... UNHCR may nevertheless consider involvement to relieve the causes of internal displacement and to contribute to conflict resolution through humanitarian action, but UNHCR activities would normally be supplementary to the humanitarian efforts of other international organizations."

The above-named non-governmental organizations welcome this clarification and endorsement of the role of UNHCR in relation to internally displaced persons.

7. The UNHCR Executive Committee 7/ also requested the High Commissioner, "in pursuance of the need for the international community to explore methods and means to address better within the United Nations system the protection and assistance needs of internally displaced persons, to promote further consultations on this priority issue with the Department of Humanitarian Affairs (DHA) and the Special Representative of the Secretary-General on Internally Displaced Persons" and others.

8. The General Assembly, in its resolution on internally displaced persons adopted by consensus at its forty-eighth session, not only welcomed these moves, but also invited the Representative of the Secretary-General "to present suggestions and recommendations with regard to ways and means, including the institutional aspects, of providing effective protection and assistance to the internally displaced" and called upon all Governments to facilitate his activities and encouraged them to invite him to visit their countries.

9. UNHCR, DHA, the International Committee of the Red Cross (ICRC) and non-governmental organizations address some aspects of the needs of internally displaced persons, but the absence of an effective international focal point for protection and assistance continues to render these humanitarian responses ad hoc and inadequate. We reiterate the words of the United Nations Secretary-General in his 1992 report on the Organization, "this problem has been addressed on an ad hoc basis but it is now timely to devise a clear United Nations system-wide approach to it".

10. Caritas Internationalis, the Friends World Committee for Consultation (Quakers) and the World Council of Churches consider that the response of the international community to this situation needs to be threefold, encompassing humanitarian assistance and protection to those who are internally displaced, without prejudicing the situation of those displaced across borders, and addressing the causes of displacement. The major gaps which need to be filled are:

(a) Protection in those situations which are beyond the mandate of the ICRC and outside the criteria enunciated by UNHCR (see para. 6 above); and

(b) Prevention of the causes of displacement.

11. "Violations of rights ... are a direct cause of flight. They also contribute to the development of armed conflict, which is the single biggest cause of displacement." 8/ We, therefore, believe that substantial progress could be made in these areas if international human rights and humanitarian law were respected and, when and where necessary, strictly enforced. Amongst the specific needs are:

(a) International supervision to ensure that the applicable international law is incorporated into domestic law and that violation of its provisions is accompanied by appropriate disciplinary or criminal penalties;

(b) Independent determination of whether there is an armed conflict and, if so, of what type, thus establishing the legal regime applicable, as well as strengthening the international supervision of the declaration of states of emergency and consequent derogations under international human rights law;

(c) Independent fact finding and adjudication in relation to alleged violations in non-international armed conflicts.

12. The above-named non-governmental organizations are drawing the attention of the Commission on Human Rights to these issues regarding situations of armed conflict in the context of internally displaced persons. However, an effective system of implementation of humanitarian law would be of benefit to all those affected by civil wars and internal strife, and thus also of benefit to the international community in general, especially as the provision of protection and assistance after the event is inevitably both expensive and unsatisfactory.

Notes

1/ UNHCR: State of the World's Refugees (Penguin Books, 1993), p. iii.

2/ Introductory statement by the Representative of the Secretary-General on internally displaced persons, Dr. Francis Deng, to the Third Committee of the General Assembly, 23 November 1993.

3/ Report of the Representative of the Secretary-General on internally displaced persons (A/48/579), paragraph 17.

4/ Vienna Declaration and Programme of Action, part I, paragraph 23.

5/ Report of the Forty-Fourth Session of the Executive Committee of the High Commissioner's Programme (Geneva, 4-8 October 1993). General Conclusion on International Protection 19 (s) (A/AC.96/821).

6/ Note on International Protection (A/AC.96/815), paragraph 46.

7/ Ibid, General Conclusion 19 (t).

8/ UNHCR: State of the World's Refugees (Penguin Books, 1993), p. 127.

---